

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

ORIGINAL

In the Matter of)
)
Amendment of Section 73.622(b),)
Table of Allotments,)
Digital Television Broadcast Stations)
(Jackson, Mississippi))

MM Docket No. 01-43
RM-10041

RECEIVED

APR 13 2001

To: Chief, Video Services Division

FCC MAIL ROOM

COMMENTS OF KM COMMUNICATIONS, INC.

1. KM Communications, Inc. ("KM"), an applicant for a new analog commercial television station on Channel 51 at Jackson, Mississippi (File No. BPCT-960930LW, Facility ID No. 84477), by its counsel, and pursuant to Sections 1.415 and 1.420 of the Commission's rules, 47 C.F.R. §§ 1.415 and 1.420, respectfully submits these Comments in support of the amendment of Section 73.622(b) of the Commission's rules, 47 C.F.R. § 73.622(b), the Digital Television ("DTV") Table of Allotments, proposed by the Notice of Proposed Rule Making¹ in the above-captioned proceeding. In support of these Comments and the proposed DTV channel substitution for Jackson, Mississippi, KM submits the following:

2. The NPRM was adopted in response to a petition for rule making filed on May 1, 2000 (the "Petition") and supplemented on January 2, 2001 (the "Supplement") by Civic License Holding Company, Inc. ("Civic"), the licensee of WLBT-TV, analog Channel 3, Jackson, Mississippi (Facility ID No. 68542, "WLBT"). The NPRM and the Petition propose the substitution

¹ See Amendment of Section 73.622(b), Table of Allotments, Digital Television Broadcast Stations (Jackson, Mississippi), MM Docket No. 01-43, RM-10041, Notice of Proposed Rule Making, DA 01-388 (Video Services Division, released February 20, 2001)(the "NPRM").

No. of Copies rec'd 04
List A B C D E

of DTV Channel 9 for the DTV Channel 51 currently allotted to Jackson, Mississippi as the second paired DTV channel for WLBT.

3. KM supports the substitution of DTV Channel 9 for DTV Channel 51 at Jackson, Mississippi, as proposed by Civic. KM is one of nine applicants for a construction permit for a new analog television station on Channel 51 at Jackson, Mississippi, which would be precluded by the current DTV Channel 51 allotment for WLBT. However, the Commission has afforded applicants for new analog television stations on allotments that conflicted with DTV allotments an opportunity to file an amendment to their application and/or a petition for rule making to change the analog allotment to a channel below Channel 60 which would not conflict with any DTV allotments.² In response to the Public Notice, KM and six of the other eight applicants for analog Channel 51 collectively filed a Petition for Rule Making proposing that analog Channel 59 be substituted for analog Channel 51 at Jackson.³ Unfortunately, two of the nine applicants for analog Channel 51 did not join in the Analog Channel 51 Petition.

4. The Analog Channel 51 Petition also noted that Civic's Petition to change its DTV Channel 51 allotment was pending, and specifically requested that the Analog Channel 51 Petition be held in abeyance pending action on Civic's Petition, noting that the proposed change in the analog Channel 51 allotment would not be necessary if DTV Channel 9 was substituted for DTV Channel 51 at Jackson.

² See Public Notice, Mass Media Bureau Announces Window Filing Opportunity for Certain Pending Applications and Allotment Petitions for New Analog TV Stations, DA 99-2605 (released November 22, 1999); see also, Public Notice, Window Filing Opportunity For Certain Pending Applications and Allotment Petitions for New Analog TV Stations Extended to July 15, 2000, DA 00-536 (released March 9, 2000)(together, the "Public Notice").

³ See Petition for Rule Making filed July 17, 2000 (the "Analog Channel 51 Petition").

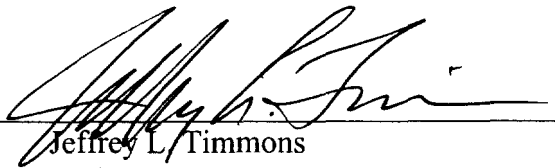
5. Grant of the Petition and the proposed substitution of DTV Channel 9 for DTV Channel 51 at Jackson as the second paired DTV channel for WLBT would serve the public interest and would be the most preferential arrangement of allotments. In addition to the public interest benefits that Civic has identified in its Petition and the Supplement, the proposed substitution would permit the processing and grant of one of the pending analog Channel 51 applications without a change of the analog channel, which in turn would permit the dismissal of the Analog Channel 51 Petition.

6. The public interest would be better served by authorization of a new analog television station on Channel 51, as would be possible if the proposed DTV channel substitution is made, rather than on Channel 59, since Channel 51 is within the “core” channels (i.e., Channels 2 to 51), and would prevent another station being authorized in the non-core Channels 52 to 59. Channels 52 to 59 are the subject of a pending rule making proceeding considering the reallocation and auction of that spectrum for other purposes, so the public interest would be served by minimizing the number of new television stations authorized in that spectrum. Allowing the authorization of the new analog television station on Channel 51 would also serve the public interest by resolving the potential conflict among the nine applicants that likely will arise due to the fact that only seven of the nine applicants joined in the Analog Channel 51 Petition, with the remaining two applicants not in agreement with the proposed channel substitution.

7. Wherefore, the above-premises being considered, KM supports the proposed substitution of DTV Channel 9 for DTV Channel 51 at Jackson, Mississippi, as the second paired DTV channel for WLBT, and submits that the public interest would be best served thereby since the proposed DTV channel change would also facilitate the resolution of the pending applications (including KM's application) for a construction permit for a new commercial television station on analog Channel 51 serving Jackson, Mississippi.

Respectfully submitted,

KM Communications, Inc.

By: 
Jeffrey L. Timmons
Its Attorney

Jeffrey L. Timmons, P.C.
3235 Satellite Boulevard
Building 400, Suite 300
Atlanta, Georgia 30096-8688
(770) 291-2170 telephone
(770) 291-2171 facsimile
jeff@timmonspc.com

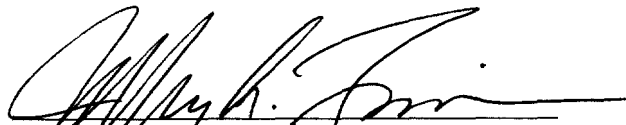
April 12, 2001

CERTIFICATE OF SERVICE

I, Jeffrey L. Timmons, hereby certify that on this 12th day of April, 2001, copies of the foregoing "Comments of KM Communications, Inc." have been served by Airborne Express and then hand delivery (marked with an "**") or by United States priority mail, postage prepaid, upon the following:

Pamela Blumenthal, Esq.*
Federal Communications Commission
Mass Media Bureau, Video Services Division
445 12th Street, S.W., Room 2-A762
Washington, D.C. 20554

Scott S. Patrick, Esq.
Dow, Lohnes & Albertson, PLLC
1200 New Hampshire Avenue
Suite 800
Washington, D.C. 20036-6802


Jeffrey L. Timmons, Esq.